

APPEAL BRIEF



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

NOV 04 2004

Technology Center 2600

In re Application of:
Michael Wayne Brown, *et al.*

Serial No.: 10/022,624

Filed: December 17, 2001

Title: Logging Calls According to Call
Context

§
§
§
§
§
§
§
§
§
§

Group Art Unit: 2645

Examiner: Sing, Simon P.

Atty Docket No.: AUS920010835US1

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on

10/28/04

Date

Elizabeth Biggers

Elizabeth Biggers

APPEAL BRIEF

Honorable Commissioner:

This is an Appeal Brief filed pursuant to 37 CFR § 41.37 in response to the Final Office Action of August 3, 2004, and pursuant to the Notice of Appeal filed August 31, 2004.

REAL PARTY IN INTEREST

The real party in interest is the patent assignee, International Business Machines Corporation ("IBM"), a New York corporation having a place of business at Armonk, New York 10504.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

STATUS OF CLAIMS

Claims 1-33 and 35-47 are pending in the case. All pending claims are on appeal.

STATUS OF AMENDMENTS

No amendments were submitted after final rejection. The claims as currently presented are included in the Appendix of Claims that accompanies this Appeal Brief.

SUMMARY OF CLAIMED SUBJECT MATTER

Applicants provide the following concise summary of the claimed subject matter according to 37 CFR§ 41.37(c)(1)(vii), including references to the specification (Publication No. 20030112928) with paragraph numbers and to the drawings by paragraph numbers.

Methods for controlling call logging, including detecting a context for a call (described for example at paragraphs 0094, 0141-0143, Figure 5, paragraphs 158-172, Figure 7, and paragraphs 0178-0188); accessing at least one context based logging request valid for said context for said call (described for example at paragraphs 0094, 0141-0143, Figure 5, paragraphs 158-172, Figure 7, and paragraphs 0178-0188); and logging said context according to said context based logging request (described for example at paragraphs 0094, 0141-0143, Figure 5, paragraphs 158-172, Figure 7, and paragraphs 0178-0188). Systems for controlling call logging, including a logging controller communicatively connected to a trusted telephone network (described for example at paragraphs 0094, 0141-0143, Figure 5, paragraphs 158-172, Figure 7, and paragraphs 0178-0188); means for detecting a context for a call at said logging controller(described for example at

paragraphs 0094, 0141-0143, Figure 5, paragraphs 158-172, Figure 7, and paragraphs 0178-0188); means for accessing at least one context based logging request valid for said context for said call(described for example at paragraphs 0094, 0141-0143, Figure 5, paragraphs 158-172, Figure 7, and paragraphs 0178-0188); and means for logging said context according to said context based logging request (described for example at paragraphs 0094, 0141-0143, Figure 5, paragraphs 158-172, Figure 7, and paragraphs 0178-0188). Computer program products for controlling call logging, including a recording medium; means, recorded on said recording medium, for detecting a context for a call (described for example at paragraphs 0094, 0141-0143, Figure 5, paragraphs 158-172, Figure 7, and paragraphs 0178-0188); means, recorded on said recording medium, for accessing at least one context based logging request valid for said context for said call(described for example at paragraphs 0094, 0141-0143, Figure 5, paragraphs 158-172, Figure 7, and paragraphs 0178-0188); and means, recorded on said recording medium, for logging said context according to said context based logging request (described for example at paragraphs 0094, 0141-0143, Figure 5, paragraphs 158-172, Figure 7, and paragraphs 0178-0188).

Methods for controlling call receipts, including logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request (described for example at Figure 10 and paragraphs 196-199); and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call (described for example at Figure 10 and paragraphs 196-199). Systems for controlling call receipts, including means for logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request (described for example at Figure 10 and paragraphs 196-199); and means responsive to a request by said particular party, for controlling output of said logged context entry to said particular party as a receipt for said call (described for example at Figure 10 and paragraphs 196-199). Computer program products for controlling call receipts, including a recording medium; means, recorded on said recording medium, for logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request (described for example at Figure 10 and paragraphs

196-199); and means, recorded on said recording medium, for controlling output of said logged context entry to a requesting party as a receipt for said call (described for example at Figure 10 and paragraphs 196-199).

All such references to the specification identify descriptions and discussions that are part of the detailed descriptions of exemplary embodiments of the present invention in the present application. Such descriptions and discussions are not limitations of the claims in the present application. The only limitations of the claims are set forth in the claims themselves.

GROUND OF REJECTION

Claims 1, 2, 4-8, 11-17, 19-23, 26-32 and 36-47 stand rejected under 35 U.S.C § 102(e) as being anticipated by Gurbani (U.S. Patent No. 6,282,275). Claims 1, 3, 4, 16, 18, 19, 31 and 32 stand rejected under 35 U.S.C § 102(e) as being anticipated by Shaffer, *et al.* (U.S. Patent No. 6,363,145). Claims 1, 9, 10, 16, 24, 25, 31, 33, 35, 41, 44 and 47 stand rejected under 35 U.S.C § 102(e) as being anticipated by Maloney, *et al.* (U.S. Patent No. 5,535,256).

ARGUMENT

REJECTION UNDER 35 U.S.C § 102(e) OVER GURBANI

Claims 1, 2, 4-8, 11-17, 19-23, 26-32 and 36-47 stand rejected under 35 U.S.C § 102(e) as being anticipated by Gurbani (U.S. Patent No. 6,282,275). To anticipate claims 1, 2, 4-8, 11-17, 19-23, 26-32 and 36-47 under 35 U.S.C. § 102(e), two basic requirements must be met. The first requirement of anticipation is that Gurbani must disclose each and every element as set forth in Applicants' claims. The second requirement of anticipation is that Gurbani must enable Applicants' claims. Gurbani does not meet either requirement and therefore does not anticipate Applicants' claims.

Gurbani Does Not Disclose Each and Every Element of
Applicants' Claims 1, 2, 4-8, 11-17, 19-23, 26-32 and 36-47

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Gurbani does not disclose each and every element of claim 1. Independent claim 1 claims "a method for controlling call logging, comprising: detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request." In contrast to claim 1, Gurbani discloses a method for storing caller identification information as a caller ID list of all calls received by a subscriber including the caller name, caller phone number, and the time of the call. Gurbani, column 3, lines 20-57. Gurbani discloses listing every call received by a subscriber regardless of the context of the call. Gurbani therefore actually teaches away from controlling call logging including context based logging requests that are valid for a context of a call because Gurbani teaches listing all calls without regard to the call context and without regard to valid context based logging requests. In fact, Gurbani does not even mention context based logging requests, valid context based logging requests or invalid context based logging requests. Gurbani therefore does not disclose each and every element of independent claim 1 and therefore, does not anticipate claim 1.

Claims 2-15 depend from independent claim 1 and include all of the limitations of claim 1. Because Gurbani does not disclose each and every element of claim 1, Gurbani does not disclose each and every element of claims 2-15. As such, claims 2-15 are also patentable and should be allowed.

Independent claims 16 and 31 recite system and computer program product claims corresponding to independent claim 1 that include "means for" and "means, recorded on [a] recording medium," for: detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request. As discussed above, Gurbani discloses a

method for storing caller identification information as a caller ID list of all calls received by a subscriber including the caller name, caller phone number, and the time of the call. Gurbani, column 3, lines 20-57. Gurbani discloses listing every call received by a subscriber regardless of the context of the call. Gurbani therefore actually teaches away from systems and products for controlling call logging including context based logging requests that are valid for a context of a call because Gurbani teaches listing all calls without regard to the call context and without regard to valid context based logging requests. In fact, Gurbani does not even mention context based logging requests, valid context based logging requests or invalid context based logging requests. Therefore, for the same reason that Gurbani does not disclose a method for controlling call logging, Gurbani also does not teach a system or computer program product for controlling call logging as claimed in independent claims 16 and 31. Independent claims 16 and 31 are patentable and should also be allowed.

Claims 17-30 and 32-40 depend from independent claims 16 and 31 respectively and include all of the limitations of the claims from which they depend. Because Gurbani does not teach each and every element of claims 16 and 31, Gurbani does not teach each and every element of claims 17-30 and 32-40. As such, claims 1-40 are not anticipated by Gurbani.

Turning now to independent claim 41, Gurbani does not disclose each and every element of independent claim 41. Independent claim 41 claims "a method for controlling call receipts, comprising: logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call." In contrast to claim 41, Gurbani discloses a method for storing caller identification information as a caller ID list of all calls received by a subscriber including the caller name, caller phone number, and the time of the call. Gurbani, column 3, lines 20-57. Gurbani discloses listing every call received by a subscriber regardless of the context of the call or context criteria. Gurbani therefore actually teaches away from controlling call receipts including logging a context entry of a

call for a particular party according to said context meeting a context criteria of a logging request. In fact, Gurbani does not even mention context entries or context criteria. Gurbani therefore does not disclose each and every element of independent claim 41 and therefore, does not anticipate claim 41.

Independent claims 44 and 47 recite system and computer program products for controlling call receipts corresponding to independent method claim 41 that include “means for” and “means, recorded on [a] recording medium, for:” logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call. As discussed above, Gurbani discloses a method for storing caller identification information as a caller ID list of all calls received by a subscriber including the caller name, caller phone number, and the time of the call. Gurbani, column 3, lines 20-57. Gurbani discloses listing every call received by a subscriber regardless of the context of the call or context criteria. Gurbani therefore actually teaches away from controlling call receipts including logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request. In fact, Gurbani does not even mention context entries or context criteria. Therefore, for the same reason that Gurbani does not disclose a method for controlling call receipts, Gurbani also does not disclose systems and computer program products for controlling call receipts corresponding to independent method claims 44 and 47. Independent claims 44 and 47 are therefore patentable and should be allowed.

Claims 42-43 and 45-46 depend from independent claims 41 and 44 respectively and include all of the limitations of the claims from which they depend. Because Gurbani does not teach each and every element of claims 41 and 44, Gurbani does not teach each and every element of dependent claims 42-43 and 45-46. As such, claims 41-47 are patentable and should be allowed.

Gurbani Does Not Enable
Applicants' Claims 1, 2, 4-8, 11-17, 19-23, 26-32 and 36-47

Not only must Gurbani disclose each and every element of claims 1, 2, 4-8, 11-17, 19-23, 26-32 and 36-47 of the present invention within the meaning of *Verdegaal* in order to anticipate Applicants' claims, but also Gurbani must be an enabling disclosure of Applicants' claims 1, 2, 4-8, 11-17, 19-23, 26-32 and 36-47 within the meaning of *In re Hoeksema*. In *Hoeksema*, the claims were rejected because an earlier patent disclosed a structural similarity to the applicant's chemical compound. The court in *Hoeksema* stated: "We think it is sound law, consistent with the public policy underlying our patent law, that before any publication can amount to a statutory bar to the grant of a patent, its disclosure must be such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention." *In re Hoeksema*, 399 F.2d 269, 273, 158 USPQ 596, 600 (CCPA 1968). The meaning of *Hoeksema* for the present case is that unless Gurbani places Applicants' claims 1, 2, 4-8, 11-17, 19-23, 26-32 and 36-47 in the possession of a person of ordinary skill in the art, Gurbani is legally insufficient to anticipate Applicants' claims 1, 2, 4-8, 11-17, 19-23, 26-32 and 36-47 under 35 USC 102(e). Claims 1, 2, 4-8, 11-17, 19-23, 26-32 and 36-47 are therefore patentable and should be allowed.

Gurbani does not enable claim 1. Independent claim 1 claims "a method for controlling call logging, comprising: detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request." In contrast to claim 1, Gurbani discloses a method for storing caller identification information as a caller ID list of all calls received by a subscriber including the caller name, caller phone number, and the time of the call. Gurbani, column 3, lines 20-57. Gurbani discloses listing every call received by a subscriber regardless of the context of the call. Gurbani therefore actually teaches away from controlling call logging including context based logging requests that are valid for a context of a call because Gurbani teaches listing all calls without regard to call context and without regard to valid logging requests. In fact, Gurbani does not even mention context based logging requests, valid context based logging requests or invalid

context based logging requests. Gurbani therefore does not place one of ordinary skill in the art in possession of claim 1 and is therefore legally insufficient to anticipate claim 1.

Claims 2-15 depend from independent claim 1 and include all of the limitations of claim 1. Because Gurbani does not place one of ordinary skill in the art in possession of claim 1, Gurbani does not place one of ordinary skill in the art in possession of claims 2-15. As such, claims 2-15 are also patentable and should be allowed.

Independent claims 16 and 31 recite system and computer program product claims corresponding to independent claim 1 that include “means for” and “means, recorded on [a] recording medium,” for: detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request. As discussed above, Gurbani discloses a method for storing caller identification information as a caller ID list of all calls received by a subscriber including the caller name, caller phone number, and the time of the call. Gurbani, column 3, lines 20-57. Gurbani discloses listing every call received by a subscriber regardless of the context of the call. Gurbani therefore actually teaches away from controlling call logging including context based logging requests that are valid for a context of a call because Gurbani teaches listing all calls without regard to the call context and without regard to valid context based logging requests. In fact, Gurbani does not even mention context based logging requests, valid context based logging requests or invalid context based logging requests. For the same reason that Gurbani does not enable a method for controlling call logging, Gurbani also does enable a system or computer program product for controlling call logging as claimed in independent claims 16 and 31. Independent claims 16 and 31 are therefore patentable and should also be allowed.

Claims 17-30 and 32-40 depend from independent claims 16 and 31 respectively and include all of the limitations of the claims from which they depend. Because Gurbani does not place one of ordinary skill in the art in possession of claims 16 and 31, Gurbani does not place one of ordinary skill in the art in possession of claims 17-30 and 32-40. As such, claims 1-40 are not anticipated by Gurbani.

Turning now to independent claim 41, Gurbani does not enable independent claim 41. Independent claim 41 claims “a method for controlling call receipts, comprising: logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call.” In contrast to claim 41, Gurbani discloses a method for storing caller identification information as a caller ID list of all calls received by a subscriber including the caller name, caller phone number, and the time of the call. Gurbani, column 3, lines 20-57. Gurbani discloses listing every call received by a subscriber without regard to the context of the call or context criteria. Gurbani therefore actually teaches away from controlling call receipts including logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request. In fact, Gurbani does not even mention context entries or context criteria. Gurbani therefore does not place one of ordinary skill in the art in possession of independent claim 41 and therefore, does not anticipate claim 41.

Independent claims 44 and 47 recite system and computer program products for controlling call receipts corresponding to independent method claim 1 that include “means for” and “means, recorded on [a] recording medium, for:” logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call. As discussed above, Gurbani discloses a method for storing caller identification information as a caller ID list of all calls received by a subscriber including the caller name, caller phone number, and the time of the call. Gurbani, column 3, lines 20-57. Gurbani discloses listing every call received by a subscriber regardless of the context of the call or context criteria. Gurbani therefore actually teaches away from controlling call receipts including logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request. In fact, Gurbani does not even mention context entries or context criteria. Therefore, for the same reason that Gurbani does not place one

of ordinary skill in the art in possession of method for controlling call receipts, Guribani also does not place one of ordinary skill in the art in possession of systems and computer program products for controlling call receipts corresponding to independent method claims 44 and 47. Independent claims 44 and 47 are therefore patentable and should be allowed.

Claims 42-43 and 45-46 depend from independent claims 41 and 44 respectively and include all of the limitations of the claims from which they depend. Because Gurbani does not enable claims 41 and 44, Gurbani does not enable dependent claims 42-43 and 45-46. As such, claims 41-47 are patentable and should be allowed.

REJECTION UNDER 35 U.S.C § 102(e) OVER SCHAFFER

Claims 1, 3, 4, 16, 18, 19, 31 and 32 stand rejected under 35 U.S.C § 102(e) as being anticipated by Shaffer, *et al.* (U.S. Patent No. 6,363,145). To anticipate claims 1, 3, 4, 16, 18, 19, 31 and 32 under 35 U.S.C. § 102(e), two basic requirements must be met. The first requirement of anticipation is that Shaffer must disclose each and every element as set forth in Applicants' claims. The second requirement of anticipation is that Shaffer must enable Applicants' claims. Shaffer does not meet either requirement and therefore does not anticipate Applicants' claims.

Shaffer Does Not Disclose Each and Every Element of Applicants' Claims 1, 3, 4, 16, 18, 19, 31 and 32

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Shaffer does not disclose each and every element of independent claim 1.

Independent claim 1 claims "a method for controlling call logging, comprising: detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request." In contrast to claim 1, Shaffer teaches a method and system for automated

silent call monitoring where voice patterns within predetermined time periods are compared to thresholds to identify situations of poor customer relations. Shaffer, column 2, lines 42-65. Shaffer teaches monitoring the actual voice patterns of callers participating in the call not detecting a context for a call. Said differently, Shaffer operates against the spoken words of the call itself not the context of the call. Shaffer does not disclose controlling call logging or context based logging requests that are valid for a context of a call. In fact, Shaffer does not even mention controlling call logging, context based logging requests, valid context based logging requests or invalid context based logging requests. Shaffer therefore does not disclose each and every element of independent claim 1 and therefore, does not anticipate claim 1.

Claims 2-15 depend from independent claim 1 and include all of the limitations claim 1. Because Shaffer does not teach each and every element of claim 1, Shaffer does not teach each and every element of claims 2-15. As such, claims 1-15 are patentable and should be allowed.

Independent claims 16 and 31 recite system and computer program product claims corresponding to independent claim 1 that include “means for” and “means, recorded on [a] recording medium, for:” detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request. As discussed above, Shaffer teaches a method and system for automated silent call monitoring where voice patterns within predetermined time periods are compared to thresholds to identify situations of poor customer relations. Shaffer, column 2, lines 42-65. Shaffer teaches monitoring the actual voice patterns of callers participating in the call not detecting a context for a call. Said differently, Shaffer operates against the spoken words of the call itself not the context of the call. Shaffer does not disclose controlling call logging or context based logging requests that are valid for a context of a call. In fact, Shaffer does not even mention controlling call logging, context based logging requests, valid context based logging requests or invalid context based logging requests. Therefore, for the same reason that Shaffer does not disclose a method for controlling call logging, Shaffer also does not

disclose a system or computer program product for controlling call logging as claimed in independent claims 16 and 31. Independent claims 16 and 31 are therefore patentable and should be allowed.

Claims 17-30 and 32-40 depend from independent claims 16 and 31 respectively and include all of the limitations of the claims from which they depend. Because Shaffer does not teach each and every element of claims 16 and 31, Shaffer does not teach each and every element of claims 17-30 and 32-40. Claims 17-30 and 32-40 are therefore patentable and should be allowed.

Turning now to independent claim 41, Shaffer does not disclose each and every element of independent claim 41. Independent claim 41 claims “a method for controlling call receipts, comprising: logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call.” In contrast to claim 41, Shaffer teaches a method and system for automated silent call monitoring where voice patterns within predetermined time periods are compared to thresholds to identify situations of poor customer relations. Shaffer, column 2, lines 42-65. Shaffer teaches monitoring the actual voice patterns of callers participating in the call not detecting a context for a call. Said differently, Shaffer operates against the spoken words of the call itself not the context of the call or context criteria. Shaffer therefore does not disclose controlling call receipts including logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request. In fact, Shaffer does not even mention controlling call receipts, logging a context entry of a call for a particular party, context criteria of a logging request, or controlling output of a logged context entry. Shaffer therefore does not disclose each and every element of independent claim 41 and therefore, does not anticipate claim 41.

Independent claims 44 and 47 recite system and computer program products for controlling call receipts corresponding to independent method claim 41 that include

“means for” and “means, recorded on [a] recording medium, for:” logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call. As discussed above, Shaffer teaches a method and system for automated silent call monitoring where voice patterns within predetermined time periods are compared to thresholds to identify situations of poor customer relations. Shaffer, column 2, lines 42-65. Shaffer teaches monitoring the actual voice patterns of callers participating in the call not detecting a context for a call. Said differently, Shaffer operates against the spoken words of the call itself not the context of the call or context criteria. Shaffer does not disclose controlling call receipts including logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request. In fact, Shaffer does not even mention controlling call receipts, logging a context entry of a call for a particular party, context criteria of a logging request, or controlling output of a logged context entry. For the same reason that Shaffer does not disclose a method for controlling call receipts, Shaffer also does not disclose a system and computer program product for controlling call receipts corresponding to independent claims 44 and 47, and therefore does not anticipate independent claims 44 and 47.

Claims 42-43 and 45-46 depend from independent claims 41 and 44 respectively and include all of the limitations of the claims from which they depend. Because Shaffer does not teach each and every element of claims 41 and 44, Shaffer does not teach each and every element of claims 42-43 and 45-46. Claims 41-47 are therefore patentable and should be allowed.

Schaffer Does Not Enable
Applicants' Claims 1, 3, 4, 16, 18, 19, 31 and 32

Not only must Shaffer disclose each and every element of the claims of the present invention within the meaning of *Verdegaal* in order to anticipate Applicants' claims, but also Shaffer must be an enabling disclosure of Applicants' claims within the meaning of *In re Hoeksema*. Shaffer does not enable independent claim 1. Independent claim 1

claims “a method for controlling call logging, comprising: detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request.” In contrast to claim 1, Shaffer teaches a method and system for automated silent call monitoring where voice patterns within predetermined time periods are compared to thresholds to identify situations of poor customer relations. Shaffer, column 2, lines 42-65. Shaffer teaches monitoring the actual voice patterns of callers participating in the call not detecting a context for a call. Said differently, Shaffer operates against the spoken words of the call itself not the context of the call. Shaffer does not disclose controlling call logging or context based logging requests that are valid for a context of a call. In fact, Shaffer does not even mention controlling call logging, context based logging requests, valid context based logging requests or invalid context based logging requests. Shaffer therefore does not place one of ordinary skill in the art in possession of independent claim 1 and therefore, does not anticipate claim 1.

Claims 2-15 depend from independent claim 1 and include all the limitations of claim 1. Because Shaffer does not enable claim 1, Shaffer does not enable claims 2-15. As such, claims 1-15 are patentable and should be allowed.

Independent claims 16 and 31 recite system and computer program product claims corresponding to independent claim 1 that include “means for” and “means, recorded on [a] recording medium, for:” detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request. As discussed above, Shaffer teaches a method and system for automated silent call monitoring where voice patterns within predetermined time periods are compared to thresholds to identify situations of poor customer relations. Shaffer, column 2, lines 42-65. Shaffer teaches monitoring the actual voice patterns of callers participating in the call not detecting a context for a call. Said differently, Shaffer operates against the spoken words of the call itself not the context of the call. Shaffer does not disclose controlling call logging or context based logging requests that are valid for a context of a call. In fact, Shaffer does not even mention

controlling call logging, context based logging requests, valid context based logging requests or invalid context based logging requests. For the same reason that Shaffer does not place one of ordinary skill in the art in possession of a method for controlling call logging, Shaffer also does not place one of ordinary skill in the art in possession of a system or computer program product for controlling call logging as claimed in independent claims 16 and 31. Independent claims 16 and 31 are therefore patentable and should be allowed.

Claims 17-30 and 32-40 depend from independent claims 16 and 31 respectively and include all of the limitations of the claims from which they depend. Because Shaffer does not enable claims 16 and 31, Shaffer does not enable claims 17-30 and 32-40. Claims 17-30 and 32-40 are therefore patentable and should be allowed.

Turning now to independent claim 41, Shaffer does not enable independent claim 41. Independent claim 41 claims “a method for controlling call receipts, comprising: logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call.” In contrast to claim 41, Shaffer teaches a method and system for automated silent call monitoring where voice patterns within predetermined time periods are compared to thresholds to identify situations of poor customer relations. Shaffer, column 2, lines 42-65. Shaffer teaches monitoring the actual voice patterns of callers participating in the call not detecting a context for a call. Said differently, Shaffer operates against the spoken words of the call itself not the context of the call. Shaffer does not disclose controlling call receipts including logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request. In fact, Shaffer does not even mention controlling call receipts, logging a context entry of a call for a particular party, context criteria of a logging request, or controlling output of a logged context entry. Shaffer therefore does not place one of ordinary skill in the art in possession of independent claim 41 and therefore, does not anticipate claim 41.

Independent claims 44 and 47 recite system and computer program products for controlling call receipts corresponding to independent method claim 1 that include “means for” and “means, recorded on [a] recording medium, for:” logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call. As discussed above, Shaffer teaches a method and system for automated silent call monitoring where voice patterns within predetermined time periods are compared to thresholds to identify situations of poor customer relations. Shaffer, column 2, lines 42-65. Shaffer teaches monitoring the actual voice patterns of callers participating in the call not detecting a context for a call. Said differently, Shaffer operates against the spoken words of the call itself not the context of the call. Shaffer does not disclose controlling call receipts including logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request. In fact, Shaffer does not even mention controlling call receipts, logging a context entry of a call for a particular party, context criteria of a logging request, or controlling output of a logged context entry. For the same reason that Shaffer does not place one of ordinary skill in the art in possession of a method for controlling call receipts, Shaffer also does not place one of ordinary skill in the art in possession of a system and computer program product for controlling call receipts corresponding to independent claims 44 and 47, and therefore does not anticipate independent claims 44 and 47.

Claims 42-43 and 45-46 depend from independent claims 41 and 44 respectively and include all of the limitations of the claims from which they depend. Because Shaffer does not enable claims 41 and 44, Shaffer does not enable claims 42-43 and 45-46. Claims 41-47 are therefore patentable and should be allowed.

REJECTION UNDER 35 U.S.C § 102(e) OVER MALONEY

Claims 1, 9, 10, 16, 24, 25, 31, 33, 35, 41, 44 and 47 stand rejected under 35 U.S.C § 102(e) as being anticipated by Maloney, *et al.* (U.S. Patent No. 5,535,256). To

anticipate claims 1, 9, 10, 16, 24, 25, 31, 33, 35, 41, 44 and 47 under 35 U.S.C. § 102(e), two basic requirements must be met. The first requirement of anticipation is that Maloney must disclose each and every element as set forth in Applicants' claims. The second requirement of anticipation is that Maloney must enable Applicants' claims. Maloney does not meet either requirement and therefore does not anticipate Applicants' claims.

Maloney Does Not Disclose Each and Every Element of
Applicants' Claims 1, 9, 10, 16, 24, 25, 31, 33, 35, 41, 44 and 47

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Maloney does not disclose each and every element of independent claim 1. Independent claim 1 claims "a method for controlling call logging, comprising: detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request." In contrast to claim 1, Maloney discloses automatically monitoring the performance quality of call center service representatives by automatically and randomly determining a time and interval to monitor the agent and recording the call service representative at the determined time and for the determined interval. The recorded performance may then be used by a call center supervisor to evaluate the call center representative's performance. Maloney, column 4, lines 25 – 50; column 5, lines 5-60. Maloney discloses recording a call in dependence upon a predetermined time not a context for a call. In fact, Maloney does not even mention context based logging requests, valid context based logging requests or invalid context based logging requests. Maloney therefore does not disclose each and every element of independent claim 1 and therefore does not anticipate claim 1.

Claims 2-15 depend from independent claim 1 and include all of the limitations of claim 1. Because Maloney does not teach each and every element of claim 1, Maloney does not

teach each and every element of claims 2-15. As such, claims 1-15 are patentable and should be allowed.

Independent claims 16 and 31 recite system and computer program product claims corresponding to independent claim 1 that include “means for” and “means, recorded on [a] recording medium, for:” detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request. As discussed above, Maloney discloses automatically monitoring the performance quality of call center service representatives by automatically and randomly determining a time and interval to monitor the agent and recording the call service representative at the determined time and for the determined interval. The recorded performance may then be used by a call center supervisor to evaluate the call center representative’s performance. Maloney, column 4, lines 25 – 50; column 5, lines 5-60. Maloney discloses recording a call in dependence upon a predetermined time not a context for a call. In fact, Maloney does not even mention context based logging requests, valid context based logging requests or invalid context based logging requests. Therefore, for the same reason that Maloney does not teach a method for controlling call logging, Maloney also does not teach a system or computer program product for controlling call logging as claimed in independent claims 16 and 31. Independent claims 16 and 31 are therefore patentable and should be allowed.

Claims 17-30 and 32-40 depend from independent claims 16 and 31 respectively and include all of the limitations of the claims from which they depend. Because Maloney does not teach each and every element of claims 16 and 31, Maloney does not teach each and every element of claims 17-30 and 32-40. Claims 17-30 and 32-40 are therefore patentable and should be allowed.

Turning now to independent claim 41, Maloney does not disclose each and every element of independent claim 41. Independent claim 41 claims “a method for controlling call receipts, comprising: logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and responsive to a request

by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call.” In contrast to independent claim 41, Maloney discloses automatically monitoring the performance quality of call center service representatives by automatically and randomly determining a time and interval to monitor the agent and recording the call service representative at the determined time and for the determined interval. The recorded performance may then be used by a call center supervisor to evaluate the call center representative’s performance. Maloney, column 4, lines 25 – 50; column 5, lines 5-60. Maloney discloses recording a call in dependence upon a predetermined time not context criteria. In fact, Maloney does not even mention controlling call receipts, logging a context entry of a call for a particular party, context criteria of a logging request, or controlling output of a logged context entry. Maloney therefore does not disclose each and every element of independent claim 41 and therefore, does not anticipate claim 41.

Independent claims 44 and 47 recite system and computer program products for controlling call receipts corresponding to independent method claim 1 that include “means for” and “means, recorded on [a] recording medium, for:” logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call. As discussed above Maloney discloses automatically monitoring the performance quality of call center service representatives by automatically and randomly determining a time and interval to monitor the agent and recording the call service representative at the determined time and for the determined interval. The recorded performance may then be used by a call center supervisor to evaluate the call center representative’s performance. Maloney, column 4, lines 25 – 50; column 5, lines 5-60. Maloney discloses recording a call in dependence upon a predetermined time not context criteria. In fact, Maloney does not even mention controlling call receipts, logging a context entry of a call for a particular party, context criteria of a logging request, or controlling output of a logged context entry. Therefore, for the same reason that Maloney does not disclose a method for controlling call receipts, Maloney does not teach a system and computer program product for controlling call

receipts corresponding to independent claims 44 and 47, and therefore does not anticipate independent claims 44 and 47.

Claims 42-43 and 45-46 depend from independent claims 41 and 44 respectively and include all of the limitations of the claims from which they depend. Because Maloney does not teach each and every element of claims 41 and 44, Maloney does not teach each and every element of claims 42-43 and 45-46. Claims 41-47 are therefore patentable and should be allowed.

Maloney Does Not Enable
Applicants' Claims 1, 9, 10, 16, 24, 25, 31, 33, 35, 41, 44 and 47

Not only must Maloney disclose each and every element of the claims of the present invention within the meaning of *Verdegaal* in order to anticipate Applicants' claims, but also Maloney must be an enabling disclosure of Applicants' claims within the meaning of *In re Hoeksema*. Maloney does not enable independent claim 1. Independent claim 1 claims "a method for controlling call logging, comprising: detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request." In contrast to claim 1, Maloney discloses automatically monitoring the performance quality of call center service representatives by automatically and randomly determining a time and interval to monitor the agent and recording the call service representative at the determined time and for the determined interval. The recorded performance may then be used by a call center supervisor to evaluate the call center representative's performance. Maloney, column 4, lines 25 – 50; column 5, lines 5-60. Maloney discloses recording a call in dependence upon a predetermined time not a context for a call. In fact, Maloney does not even mention context based logging requests, valid context based logging requests or invalid context based logging requests. Maloney therefore does not place one of ordinary skill in the art in possession of claim 1 and therefore does not anticipate claim 1.

Claims 2-15 depend from independent claim 1 and include all of the limitations of claim 1. Because Maloney does not enable claim 1, Maloney does not enable claims 2-15. As such, claims 1-15 are patentable and should be allowed.

Independent claims 16 and 31 recite system and computer program product claims corresponding to independent claim 1 that include “means for” and “means, recorded on [a] recording medium, for:” detecting a context for a call; accessing at least one context based logging request valid for said context for said call; and logging said context according to said context based logging request. As discussed above, Maloney discloses automatically monitoring the performance quality of call center service representatives by automatically and randomly determining a time and interval to monitor the agent and recording the call service representative at the determined time and for the determined interval. The recorded performance may then be used by a call center supervisor to evaluate the call center representative’s performance. Maloney, column 4, lines 25 – 50; column 5, lines 5-60. Maloney discloses recording a call in dependence upon a predetermined time not a context for a call. In fact, Maloney does not even mention context based logging requests, valid context based logging requests or invalid context based logging requests. For the same reason that Maloney does not place one of ordinary skill in the art in possession of a method for controlling call logging, Maloney does not place one of ordinary skill in the art in possession of a system or computer program product for controlling call logging as claimed in independent claims 16 and 31. Independent claims 16 and 31 are therefore patentable and should be allowed.

Claims 17-30 and 32-40 depend from independent claims 16 and 31 respectively and include all of the limitations of the claims from which they depend. Because Maloney does not enable claims 16 and 31, Maloney does not enable claims 17-30 and 32-40. Claims 17-30 and 32-40 are therefore patentable and should be allowed.

Turning now to independent claim 41, Maloney does not enable independent claim 41. Independent claim 41 claims “a method for controlling call receipts, comprising: logging a context entry of a call for a particular party according to said context meeting a context

criteria of a logging request; and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call.” In contrast to independent claim 41, Maloney discloses automatically monitoring the performance quality of call center service representatives by automatically and randomly determining a time and interval to monitor the agent and recording the call service representative at the determined time and for the determined interval. The recorded performance may then be used by a call center supervisor to evaluate the call center representative’s performance. Maloney, column 4, lines 25 – 50; column 5, lines 5-60. Maloney simply discloses recording a call in dependence upon a predetermined time not context criteria. In fact, Maloney does not even mention controlling call receipts, logging a context entry of a call for a particular party, context criteria of a logging request, or controlling output of a logged context entry. Maloney therefore does not place one of ordinary skill in the art in possession of independent claim 41 and therefore, does not anticipate claim 41.

Independent claims 44 and 47 recite system and computer program products for controlling call receipts corresponding to independent method claim 1 that include “means for” and “means, recorded on [a] recording medium, for:” logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call. As discussed above Maloney discloses automatically monitoring the performance quality of call center service representatives by automatically and randomly determining a time and interval to monitor the agent and recording the call service representative at the determined time and for the determined interval. The recorded performance may then be used by a call center supervisor to evaluate the call center representative’s performance. Maloney, column 4, lines 25 – 50; column 5, lines 5-60. Maloney discloses recording a call in dependence upon a predetermined time not context criteria. In fact, Maloney does not even mention controlling call receipts, logging a context entry of a call for a particular party, context criteria of a logging request, or controlling output of a logged context entry. For the same reason that Maloney does not place one of ordinary skill in the art in possession a

method for controlling call receipts, Maloney does not place one of ordinary skill in the art in possession of a system and computer program product for controlling call receipts corresponding to independent claims 44 and 47, and therefore does not anticipate independent claims 44 and 47.

Claims 42-43 and 45-46 depend from independent claims 41 and 44 respectively and include all of the limitations of the claims from which they depend. Because Maloney does not enable claims 41 and 44, Maloney does not enable claims 42-43 and 45-46. Claims 41-47 are therefore patentable and should be allowed.

CONCLUSION

Claims 1-33 and 35-47 stand under 35 U.S.C § 102(e) as being anticipated by Gurbani, Shaffer and Maloney. Gurbani, Shaffer, and Maloney do not disclose each and every element of Applicants' claims and do not enable Applicants' claims. Gurbani, Shaffer, and Maloney therefore do not anticipate Applicants' claims. Claims 1-33 and 35-47 are therefore patentable and should be allowed. Applicants respectfully request reconsideration of claims 1-33 and 35-47.


In view of the forgoing arguments, reversal on all grounds of rejection is requested.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447 for any fees required or overpaid.

Respectfully submitted,

Date: 10-28-04

By:



H. Artoush Ohanian
Reg. No. 46,022
Biggers & Ohanian, LLP
504 Lavaca Street, Suite 970
Austin, Texas 78701
Tel. (512) 472-9881
Fax (512) 472-9887
ATTORNEY FOR APPELLANTS

APPENDIX OF CLAIMS
ON APPEAL IN PATENT APPLICATION OF
MICHAEL WAYNE BROWN, *ET AL.*, SERIAL NO. 10/022,624

CLAIMS

What is claimed is:

1. A method for controlling call logging, comprising:

detecting a context for a call;

accessing at least one context based logging request valid for said context for said call; and

logging said context according to said context based logging request.
2. The method for controlling call logging according to claim 1, wherein said context is detected from a context inference service executing within a trusted telephone network.
3. The method for controlling call logging according to claim 1, wherein said context is detected from a context inference service executing outside a trusted telephone network accessible via a network.

4. The method for controlling call logging according to claim 1, wherein detecting a context for a call further comprises:

detecting a plurality of context clues for a call; and

identifying a context for said call from said plurality of context clues.

5. The method for controlling call logging according to claim 4, wherein said plurality of context clues comprise at least one from among an authenticated identity of a caller of said call, an authenticated identity of a callee of said call, an identity of an origin device, an identity of a destination device, a location said call originates, and a location said call terminates, a subject matter of said call, a context of previous calls between said caller and said callee, and a line number path of said call.

6. The method for controlling logging according to claim 4, wherein identifying a context further comprises:

inferring from said context clues at least one from among who is placing said call, who is receiving said call, whether said call is behalf of another, whether a backup party is accessed, at least one device utilized for said call, a location of said at least one device utilized for said call, a billing plan for said call, a path of line numbers accessed during said call, and a subject matter of said call.

7. The method for controlling call logging according to claim 1, wherein said at least one context based logging request is requested by at least one from among a party to said call, a party called on behalf of for said call, a third party, and a guardian of a party to said call.

8. The method for controlling call logging according to claim 1, wherein said at least one context based logging request identifies at least one context based criteria for logging said context of said call.

9. The method for controlling call logging according to claim 1, further comprising:

recording said call according to said context based logging request.
10. The method for controlling call logging according to claim 9, further comprising:

notifying at least one party to said call that said call is being recorded.
11. The method for controlling call logging according to claim 1, further comprising:

notifying at least one party to said call that said context for said call is being logged.
12. The method for controlling call logging according to claim 1, further comprising:

notifying at least one party to said call of a designated party for which said context is being logged.
13. The method for controlling call logging according to claim 1, further comprising:

responsive to detecting an update to said context during said call, updating said logging of said context.
14. The method for controlling call logging according to claim 1, further comprising:

controlling output of said logged context to a party making said logged context request.
15. The method for controlling call logging according to claim 1, further comprising:

filtering a plurality of context based logging requests for a plurality of parties according to said context;

detecting a selection of said plurality of context based logging request that are relevant for said context; and

determining said at least one context based logging request that is valid for said context for said call.

16. A system for controlling call logging, comprising:

a logging controller communicatively connected to a trusted telephone network;

means for detecting a context for a call at said logging controller;

means for accessing at least one context based logging request valid for said context for said call; and

means for logging said context according to said context based logging request.

17. The system for controlling call logging according to claim 16, wherein said context is detected from a context inference service executing within said trusted telephone network.

18. The system for controlling call logging according to claim 16, wherein said context is detected from a context inference service executing outside said trusted telephone network accessible via a network.

19. The system for controlling call logging according to claim 16, wherein said means for detecting a context for a call further comprises:

means for detecting a plurality of context clues for a call; and

means for identifying a context for said call from said plurality of context clues.

20. The system for controlling call logging according to claim 19, wherein said plurality of context clues comprise at least one from among an authenticated identity of a caller of said call, an authenticated identity of a callee of said call, an identity of an origin device, an identity of a destination device, a location said call originates, and a location said call terminates, a subject matter of said call, a context of previous calls between said caller and said callee, and a line number path of said call.

21. The system for controlling call logging according to claim 20, wherein said means for identifying a context further comprises:

means for inferring from said context clues at least one from among who is placing said call, who is receiving said call, whether said call is behalf of another, whether a backup party is accessed, at least one device utilized for said call, a location of said at least one device utilized for said call, a billing plan for said call, a path of line numbers accessed during said call, and a subject matter of said call.

22. The system for controlling call logging according to claim 16, wherein said at least one context based logging request is requested by at least one from among a party to said call, a party called on behalf of for said call, a third party, and a guardian of a party to said call.

23. The system for controlling call logging according to claim 16, wherein said at least one context based logging request identifies at least one context based criteria for logging said context of said call.

24. The system for controlling call logging according to claim 16, further comprising:

means for recording said call according to said context based logging request.

25. The system for controlling call logging according to claim 24, further comprising:

means for notifying at least one party to said call that said call is being recorded.

26. The system for controlling call logging according to claim 16, further comprising:

means for notifying at least one party to said call that said context for said call is being logged.

27. The system for controlling call logging according to claim 16, further comprising:

means for notifying at least one party to said call of a designated party for which said context is being logged.

28. The system for controlling call logging according to claim 16, further comprising:

means for responsive to detecting an update to said context during said call, updating said logging of said context.

29. The system for controlling call logging according to claim 16, further comprising:

means for controlling output of said logged context to a party making said logged context request.

30. The system for controlling call logging according to claim 29, further comprising:

means for filtering a plurality of context based logging requests for a plurality of parties according to said context;

means for detecting a selection of said plurality of context based logging request that are relevant for said context; and

means for determining said at least one context based logging request that is valid for said context for said call.

31. A computer program product for controlling call logging, comprising:

a recording medium;

means, recorded on said recording medium, for detecting a context for a call;

means, recorded on said recording medium, for accessing at least one context based logging request valid for said context for said call; and

means, recorded on said recording medium, for logging said context according to said context based logging request.

32. The computer program product for controlling call logging according to claim 31, further comprising:

means, recorded on said recording medium, for detecting a plurality of context clues for a call; and

means, recorded on said recording medium, for identifying a context for said call from said plurality of context clues.

33. The computer program product for controlling call logging according to claim 31, further comprising:

means, recorded on said recording medium, for recording said call according to said context based logging request.

35. The computer program product for controlling call logging according to claim 24, further comprising:

means, recorded on said recording medium, for notifying at least one party to said call that said call is being recorded.

36. The computer program product for controlling call logging according to claim 31, further comprising:

means, recorded on said recording medium, for notifying at least one party to said call that said context for said call is being logged.

37. The computer program product for controlling call logging according to claim 31, further comprising:

means, recorded on said recording medium, for notifying at least one party to said call of a designated party for which said context is being logged.

38. The computer program product for controlling call logging according to claim 31, further comprising:

means, recorded on said recording medium, updating said logging of said context according to an updated to said context during said call.

39. The computer program product for controlling call logging according to claim 31, further comprising:

means, recorded on said recording medium, for controlling output of said logged context to a party making said logged context request.

40. The computer program product for controlling call logging according to claim 29, further comprising:

means, recorded on said recording medium, for filtering a plurality of context based logging requests for a plurality of parties according to said context;

means, recorded on said recording medium, for detecting a selection of said plurality of context based logging request that are relevant for said context; and

means, recorded on said recording medium, for determining said at least one context based logging request that is valid for said context for said call.

41. A method for controlling call receipts, comprising:

logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and

responsive to a request by said particular party, controlling output of said logged context entry to said particular party as a receipt for said call.

42. The method for controlling call receipt according to claim 41, wherein said request comprises at least one parameter for selecting said context entry.

43. The method for controlling call receipt according to claim 41, wherein said logged context entry is output to at least one from among a telephony device, a computing system, or a printer.

44. A system for controlling call receipts, comprising:

means for logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and

means responsive to a request by said particular party, for controlling output of said logged context entry to said particular party as a receipt for said call.

45. The system for controlling call receipt according to claim 44, wherein said request comprises at least one parameter for selecting said context entry.

46. The system for controlling call receipt according to claim 44, wherein said logged context entry is output to at least one from among a telephony device, a computing system, or a printer.

47. A computer program product for controlling call receipts, comprising:

a recording medium;

means, recorded on said recording medium, for logging a context entry of a call for a particular party according to said context meeting a context criteria of a logging request; and

means, recorded on said recording medium, for controlling output of said logged context entry to a requesting party as a receipt for said call.